

REMARKS

This Amendment is submitted in response to the Office Action dated November 11, 2004, having a shortened statutory period set to expire February 26, 2005. In the present Amendment, Claims 1-20 have been cancelled. Claims 21-34 have been newly entered. Therefore, Claims 21-34 are now pending.

Rejections Under 35 U.S.C. § 102(e)

In the present Office Action, Claims 1-20 are rejected under 35 U.S.C. § 102(e) as being anticipated by *Bruck et al.*, (U.S. Patent Number 6,801,949 B1; hereinafter referred to as "*Bruck*"). After careful consideration of Examiner's remarks, Applicants cancel Claims 1-20 and enter new Claims 21-34. Examiner's rejections under § 102(e) have been rendered moot due to Applicants' cancellation of Claims 1-20. However, in the event that Examiner wishes to apply *Bruck* to newly-added Claims 21-34, Applicants assert that *Bruck* in no way teaches or suggests the present invention.

Bruck teaches a scalable, distributed load balancing server system (abstract). Therefore, with respect to Claim 21, nothing in *Bruck* teaches or suggests:

in response to determining said primary load balancer is not available, forwarding said communication to said backup load balancer for transmission to at least one of said plurality of servers.

Bruck determines whether or not a virtual IP (VIP) address is "sticky" to a preferred or current host (col. 13, lines 35-45). However, "when the Preferred Host fails, it fails over to another node of the subnet" (col. 13, lines 59-60). The VIP address will move back to the Preferred Host when the Preferred Host recovers" (col. 13, lines 59-62). This indicates that when a preferred host fails, the connection is NOT handed over to a designated backup host, as set forth in Claim 21, wherein the receiving load balancer "forward[s] said communication to said determined backup load balancer for transmission to at least one of said plurality of servers". Instead, *Bruck* discloses that the connection is merely transferred to another host in the

distributed load balancing system when a preferred host fails, without forwarding the communication to an explicitly determined backup host.

Also, nothing in *Bruck* teaches or suggests "storing an identity of said primary load balancer and said backup load balancer corresponding to said communication in each of said plurality of load balancers" (Claim 21). *Bruck* discloses a "Group Membership Protocol Word" that is utilized by the servers to pass a "token message" between each server to determine the location and status of each of the servers (col. 12, lines 6-17). This clearly does not teach or suggest storing the actual identity of the primary load balancer and the backup load balancer corresponding to the communication in each of the load balancers.

Accordingly, Applicants believe that nothing in *Bruck* teaches or suggests the elements in Claim 21.

Also, Applicants believe that the arguments regarding independent Claim 21 also apply to independent Claims 25, 29, and 33. Therefore, pending Claims 21, 25, 29, 33 and all dependent Claims are thus patentable in view of the cited reference.

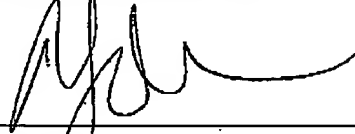
Rejections Under 35 U.S.C. § 103(a)

In the present Office Action, Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over *Bruck* in view of *Albert et al.*, (U.S. Patent Number 6,775,692 B1; hereinafter referred to as "*Albert*"). After careful consideration of Examiner's remarks, Applicants cancel Claim 1-20 and enter new Claims 21-36. Examiner's rejections under § 102(e) have been rendered moot due to Applicants' cancellation of Claims 1-20. However, in the event that Examiner wishes to apply *Albert* to newly-added Claims 21-36, Applicants assert that *Bruck*, in view of *Albert*, in no way teaches or suggests the present invention for the following reason.

Examiner asserts that *Albert* teaches and suggests testing to determine the character of a TCP packet. However, since Applicants have not referenced a determination made as to the

character of an incoming TCP packet in the newly-entered claims, Applicants assert that *Albert* does not in any way teach or suggest the present invention.

Respectfully submitted,



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